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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 03-110

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]**

#### **2. Form, Style and Placement in Administrative Code**

- a. In s. VA 17.01 (intro.), the word “Definition” should be plural and the introductory phrase could be shortened to read: “In this chapter:”.
- b. Some of the titles in the rule need reformatting. For example, only the first word of the section titles should have an initial capital letter. Also, the titles to ss. VA 17.02 and 17.03 should end with a period, not a colon. [See s. 1.05 (2), Manual, regarding title format.]
- c. In s. VA 17.02, “s.” should be inserted before the two rule citations.
- d. It would be helpful to insert a note following s. VA 17.02 with information on how to contact the department to request military funeral honors.
- e. In s. VA 17.03 (1) and numerous other locations, the words “will,” “must,” or “is required to” are used to denote a mandatory activity of the department or another entity. Instead, the word “shall” should be used. See s. 1.01 (2), Manual. The entire rule should be reviewed for occurrences of this problem.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

- a. In s. VA 17.01 (3), the “at” on line 2 should be changed to “in.”
- b. In s. VA 17.02, what specific “verification” will the department seek in order to provide funeral honors? Also, “funeral directors” should read “a funeral director” and a comma should be inserted after “eligibility” on line 3.

c. As currently structured and worded, s. VA 17.03 is confusing. The following reorganization and clarifications are suggested:

- 1) In the (intro.), the generic listing of the types of honors that may be provided is unnecessary, because subs. (1) and (2) set forth the specific activities to be conducted for basic honors and full honors, respectively. The (intro.) is also in incorrect format for introductory material, as explained in s. 1.03 (8), Manual. This could be corrected by deleting all material after the colon in the (intro.), but retaining the colon.
- 2) Subsection (1), governing basic honors, should indicate under what circumstances basic honors are to be provided and who makes that determination. Can the family request one level of honors or the other? What does “coordinate” the attendance mean? Should it be “arrange for” the attendance? Since there are to be *at least* two uniformed service representatives, the language regarding the sounding of Taps should not refer to *these two* representatives. The Taps language indicates that the service representatives will sound Taps. Does this mean that for basic honors, an electronic device to play Taps may not be used, as is permitted for full honors? Also, no mention is made of the sounding of Taps by students in grades 6-12 or college in exchange for tuition vouchers, as provided in 2003 Wisconsin Act 42, which took effect on August 26, 2003.
- 3) Subsection (2), governing full honors, should indicate under what circumstances full honors are to be provided and who makes that determination. Does the phrase “when requested” mean that the family requests the provision of full honors? Also, do full honors require attendance of at least a certain number of uniformed service representatives, as do basic honors? Finally, there is no mention of flag folding under full honors as there is for basic honors. Will there be flag folding and presentation during full honors?
- 4) Also, in sub. (2), what is meant by the department “will coordinate actions for a firing detail...”? With whom does the department coordinate? Also, the terms “firing detail” and “rifle detail” are both used. If they mean the same thing, only one term should be used to avoid confusion. The provision states that a “firing detail” consists of a minimum of three individuals and a bugler to sound Taps. It then says that “this rifle detail” may consist of a funeral honors team, military service personnel, or a veterans organization. Does this mean that the Taps bugler must also be military personnel or from a military honors team or veterans organization? If so, the provision does not cover a student playing Taps, as permitted in Act 42. Further, how does the language permitting the playing of Taps with the aid of an electronic device comport with the language that the firing detail consists of a minimum of three individuals *and a bugler* (presumably a person) to sound Taps?

d. The following comments pertain to s. VA 17.04:

- 1) The phrase “the authority of” could be stricken.
  - 2) On line three, “to not” should read “not to.” Also, how does the family know that it can direct the department not to perform funeral honors?
  - 3) The provision states that to the extent practicable, a military funeral honors team is to perform the honors at a state veterans cemetery and that on the family’s request, a veterans organization may *assist* the team in providing honors. This means that the veterans organization cannot provide funeral honors at a state veterans cemetery without the team being present as well. Is that the department’s intent? Should the veterans organization instead be permitted to conduct the funeral honors without the team when it is not practicable for the team to attend?
- e. The following comments pertain to s. VA 17.05:
- 1) The word “amount” should be stricken from the title, because under suggested rewrite of sub. (2) in item 5) below, that subsection would include language about more than just the amount of reimbursement.
  - 2) In sub. (1) (intro.), the language regarding a veterans organization’s “eligibility to receive reimbursement” should indicate what the organizations are receiving reimbursement for. The “up to \$50.00” language should be stricken because reimbursement levels are dealt with in sub. (2). Finally, the items following the (intro.) in sub. (1) (a) and (b) are not “criteria” but rather required activities in order to receive reimbursement. Therefore, it is suggested that the introductory sentence be rewritten as follows: “In order to receive reimbursement for providing military funeral honors, a veterans organization shall do all of the following:”.
  - 3) Paragraph (a) would then read: “Complete and file with the department a Taxpayer Identification Number Verification Form.” Paragraph (b) would read: “Submit a request for reimbursement on a form developed by the department, within 90 days of providing military honors.” The phrase “in accordance with department policy” is unnecessary. A note should be inserted after this subsection to indicate how to obtain the forms from the department.
  - 4) The language in par. (c) should be moved to sub. (2) which sets forth reimbursement amounts. See the next comment for a suggested rewrite of sub. (2), including placement of the language from par. (c).
  - 5) As currently drafted, sub. (2) is confusing. Although not clearly stated, it appears that the reimbursement amount is based on whether the veterans organization provided “basic honors” as described in s. VA 17.03 (1) or “full honors” as described in s. VA 17.03 (2). This conclusion is reached because reimbursement is higher if a firing detail is provided, which is only called for in

full honors and not basic honors, under s. VA 17.03. If in fact reimbursement is based on whether basic or full honors are provided, sub. (2) could be rewritten as follows:

(2) REIMBURSEMENT. (a) Reimbursement to veterans organizations for providing funeral honors shall be as follows:

1. If a single veterans organization provides basic honors, \$25.
2. If a single veterans organization provides full honors, \$50.
3. If two or more veterans organizations participate in providing full honors and one of the organizations provides a firing detail, \$50. The organizations may request that the department split the reimbursement.
4. If two or more veterans organizations participate in providing basic honors, \$25. Payment shall be to one veterans organization, as determined by the department.

(b) A veterans organization may not receive an honorarium or donation or request payment from the funeral home or the family for funeral honors for which reimbursement is sought under this section.

(c) Notwithstanding par. (a) the department may not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing funeral honors at one funeral in a day, the department shall reimburse the organization for the provision of funeral honors at any additional funerals on that day.

- 6) A note should be inserted after sub. (2) to indicate where information may be obtained about federal funding sources for military funeral honors.
- 7) Regarding the training and certification program “approved by the department” referenced in sub. (3), will the department develop that program or will it be developed by another entity? The same question pertains to the refresher training program. What will the training involve? Also, for what time period is the 60% turnover measured? Further, what criteria will the department use to determine if a veterans organization is “failing to meet minimal requirements in the provision of honors”?

f. In s. VA 17.06, the narrative information in the first sentence concerning the creation of the military funeral honors coin should not be in the text of the rule. The department should

define the term “military funeral honors coin” as the coin created by the department for presentation with a flag during military funeral honors. The language in s. VA 17.06 should state under what circumstances a coin will be presented. The provision states that it will be presented by military funeral honors teams when presenting a flag. As noted in comments c. (3) above, flag folding is only mentioned as part of basic honors and not full honors. Does that mean that coin presentation will not occur when full honors are provided? Will uniformed service personnel also have access to the coins and, if so, will they be charged?